

## REMARKS / ARGUMENTS

Claims 1-5, 7-13, 16-19, and 22 are pending.

Claims 1-5, 7-13, 16-19, and 22 are rejected.

Claim 7 is amended to eliminate the problem of the antecedent basis of “the adjusting step” issue the Examiner noted in the rejection.

Claim 13 is amended to comport to fixing the amount of data transmitted in a base layer, as claimed in Claims 1 and 7.

No new matter was entered in view of these amendments.

### ***I. 35 U.S.C. 112, Second Paragraph Rejection to Claim 7***

The Examiner rejected Claim 7 as lacking an antecedent basis for the term “the adjusting step” in the claim. As amended, the Applicants have amended the claim to recite “reducing an amount of associated base layer parity information and increasing an amount of the enhancement layer information forming the composition of priority data when network conditions are favorable for rendering the media object, while an amount of said base layer information stays the same”. Applicants assert that with this amendment, the rejection to the claim is overcome and should be withdrawn.

### ***II. 35 U.S.C. 102(e) Rejection to Claims 13 and 16-19***

The Examiner rejected Claims 13 and 16-19 under 35 U.S.C. 102(e) as being anticipated by Meehan et al. (U.S. Patent 6,909,753, hereafter referred to as ‘Meehan’). In view of the the amendment made to Claim 13, this rejection is moot. The most applicable rejection to these claims should be the rejection made to Claims 1 and 7, which is addressed later in this response.

***III. 35 U.S.C. 103(a) Rejection to Claims 1-4, 7, and 10-12 [and Claims 13 and 16-19]***

The Examiner rejected Claims 1-4, 7, and 10-12 under 35 U.S.C. 103(a) as being unpatentable over Meehan in view of Cohen et al., (U.S. Patent 6,909,753, hereafter referred to as 'Cohen'). Applicants disagree with this ground of rejection.

A. Applicants comments below should apply to amended Claims 13 and Claims 16-19 which depend on such a claim.

B. In the Examiner's rejection to Claims 1 and 7, the Examiner correctly admits the claimed attribute of having the “amount of data in the base layer stays the same” during an encoding operation is not found in the cited Meehan reference. The Examiner therefore cites to Cohen as teaching this claimed element. Hence, the Examiner concludes that both the combination of Meehan and Cohen teach or suggest all of the claimed elements of Claims 1 and 7. Applicants disagree with this conclusion.

In the review of both references, the Applicants would like to note that the Cohen reference in actuality discloses that an encoder does not maintain a constant bit rate for the base layer. Rather, the cited to bit rate  $R(b)$  is referred to as, “the base-layers frames have an average bandwidth of  $R(b)$  bits/sec,” (Cohen, col. 2, lines 44-46). Obviously, an average target bit rate bandwidth for a base layer is not the same as what is claimed in Claims 1 and 7, where the base layer has its data remaining the same. That is, the combined system of Meehan and Cohen will adjust up and down the bandwidth rate of the base layer to maintain an average bandwidth  $R(b)$  and a total average bandwidth  $R(tot)$ . This is not the same as what is claimed in Claims 1 and 7.

This point is further elaborated on in the Cohen reference, which makes reference to “for example, if after transmitting base-layer bits, the system needs to re-transmit older base-layer bits, this retransmission will use up some (or all of the

bit allocation for the given interval),” (Cohen, col. 3, lines 19-22). Using the characterization by the Examiner in the Office Action that such older base “older base-layer bits, which are parity bits used to correct error,” (Office Action, page 8, second paragraph), the Cohen reference states that at certain intervals, the only thing that is transmitted is “parity bits”. Under this characterization made by the Examiner, Meehan and Cohen do not disclose the claimed elements of Claims 1 and 7 because the  $R(b)$  would drop to zero (or would vary) under some conditions where bandwidth of transmitted “parity bits” would be equal to or near  $R(\text{total})$ . Once again, the combination discloses and/or suggests that the bandwidth for the base layer will vary depending upon circumstances which is different than what is claimed in the Applicants' invention.

Applicants therefore request that the rejection to Claims 1 and 7 be removed as the combination of Meehan and Cohen (alone or in combination) do not suggest the claimed features of such claims. Applicants also assert that Claims 2-4 and 10-12 are patentable as such claims depend on allowable Claims 1 and 7, respectively.

#### ***IV. 35 U.S.C. 103(a) Rejection to Claim 5***

The Examiner rejected Claim 5 under 35 U.S.C. 103(a) as being anticipated by Meehan in further view of Van Gestel et al. (U.S. Patent 5,579,183). Applicants disagree with this ground of rejection because Claim 5 is patentable as such a claim depends on allowable Claim 1.

Applicants therefore request that the Examiner remove the rejection to this claim.

#### ***V. 35 U.S.C. 103(a) Rejection to Claims 8 and 9***

The Examiner rejected Claims 8 and 9 under 35 U.S.C. 103(a) as being anticipated by Meehan in further view of Boyce (U.S. Patent 6,317,462).

Applicants disagree with this ground of rejection because Claims 8 and 9 are patentable as such claims depend on allowable Claim 1.

***VI. 35 U.S.C. 103(a) Rejection to Claim 22***

The Examiner rejected Claim 22 under 35 U.S.C. 103(a) as being anticipated by Meehan in further view of Jeon (U.S. Patent Publication 2002/0154697A1). Applicants disagree with this ground of rejection.

Although Applicants assert that Claim 22 is patentable, as such a claim depends on allowable Claim 13. Applicants take issue with the characterization of Meehan with Jeon. Specifically, the Examiner states in the rejection that Jeon teaches that an encoder will insert only “P” and “I” frames in a base layer and “B” frames in the enhancement layer. The Jeon reference (with Meehan) does not disclose this.

Specifically, Examiner cites to paragraph 28 of Jeon as disclosing that “B” frames are only placed in enhancement layers and “I” and “P” frames are only placed in base layers. Paragraph 29 of Jeon then states that the enhancement layer (in the spatially decomposed into four layers where a spatial information of an I frame (EI) or P frame (PI) are inserted into a spatial enhancement layer (Jeon, paragraph 33). Hence, some of the enhancement layers will contain I and P information.

Additionally, the Examiner is wrong about the characterization of Fig. 2C as teaching the claimed elements of Claim 22. Such figures do not disclose the operation of an encoder, but rather what a decoder will do, based on the capabilities of the decoder, (Jeon, paragraph 37). The attributes of Figs. 2A-2D are in the encoded video stream, the figures only show what a respective decoder will pull out of such a stream. The encoded stream will therefore have B and I information in the enhancement layer (as shown in Figs. 2B and 2D) and will be used by decoders that can use such information.

For the reasons given above, the Applicants request that the Examiner remove the rejection to Claim 22.

Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application is in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6809, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,  
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